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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,927	06/07/2004	David B. Muyskens	4253	8742

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,927

Applicant(s)

MUYSKENS, DAVID B.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/31/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the first office action for application number 10/709,927, Washing Machine Base for Securing a Central Mechanism, filed on June 7, 2004.

Information Disclosure Statement

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

Claim 14 is objected to because of the following informalities:

In line 9, "pyramid" should be ~~--pyramidal--~~.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 3-9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the diagonal fold line" in line 6, claim 4 recites "the diagonals" in line 2 and claim 8 recites "the downwardly angled panels" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 8 and 12, it is not clear if the washing machine is now being positively recited ("that receives and secures the washing machine mechanism" in claim 8 and "the washing machine has feet..." in claim 12) since the washing machine was merely functionally recited in the preamble of claim 1 ("for a washing machine..."). The applicant must make it clear whether the washing machine is being recited *positively* or *functionally*. For the purposes of this office action, the Examiner will assume the washing machine is being claimed merely functionally.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 3,048,323 to Stauffer.

Stauffer '323 discloses a base (figures 1-5) comprising a tray (10) having a substantially flat rectangular bottom panel (bottom thereof) and side panels (see figure 1) connected to and

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extending upward from the bottom panel, and an insert (A') disposed within the tray and having a centrally disposed opening (31); wherein the insert is formed from a cut and folded blank (column 2, lines 62-65).

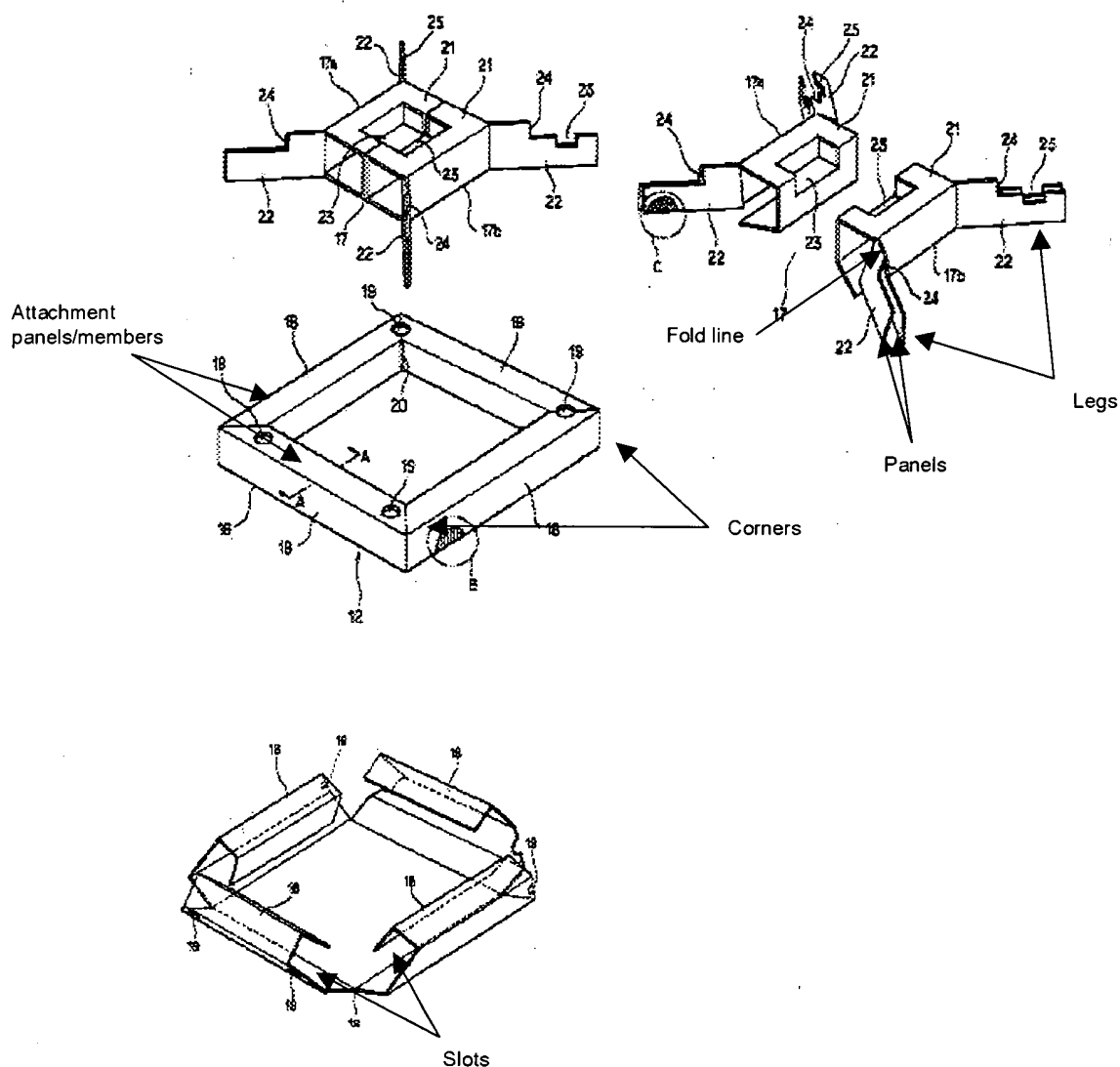
Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 4,544,351 to Marsicano.

Marsicano '351 discloses a base (figure 2) comprising a load bearing tray (6, inherently load bearing) having a substantially flat rectangular bottom panel (bottom thereof), and an insert (12) disposed within the tray and having a centrally disposed opening (between panels 18); wherein the insert is formed from a cut and folded blank (column 1, line 61), wherein downwardly angled panels (18) define the centrally disposed opening, wherein the centrally disposed opening is raised above the tray bottom panel,

Claims 1, 2 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 4,019,672 to Giannini.

Giannini '672 discloses a base (figure 7) comprising a tray (12) having a substantially flat rectangular bottom panel (bottom thereof), and an insert (figures 3,4) disposed within the tray and having a centrally disposed opening (near 15, figure 3); wherein the insert is formed from a cut and folded blank (column 3, lines 31-33), wherein the tray and insert are formed from corrugated board (column 2, lines 50-51 and column 3, lines 31-33).

Claims 1-4 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent number 7,318,003 to Tsunekawa.



Tsunekawa '003 discloses a base (figure 3) comprising a tray (16, generally) having a substantially flat rectangular bottom panel (bottom thereof), and an insert (17, generally) disposed within the tray and having a centrally disposed opening (23); wherein the insert is formed from a cut and folded, wherein the tray and insert are formed from corrugated board blank (see line 1 of "solution", "corrugated fiberboard"), wherein the tray further comprises four corners (above) and the insert comprises four legs (above) extending radially from the centrally disposed opening toward the four corners of the tray, each leg comprising a pair of downwardly

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angled panels (above) connected along a fold line (above), each downwardly angled panel sloping downward from a diagonal fold line to an attachment panel (above) that is affixed to the tray, wherein the fold lines are aligned with the diagonals of the bottom panel, wherein the tray has side panels (18) connected to and extending upward from the bottom panel, wherein members are adhered to the tray ("adhered" is defined in Merriam-Webster's Collegiate Dictionary as "to hold fast", so clearly, the members above are "held fast" to the tray), wherein the members, the bottom panel and the side panels define slots (above), wherein the members have openings (19).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stauffer '323 in view of U.S. Patent number 6,053,326 to Ford

Stauffer '323 teaches the previous invention, and further teaches the tray to comprise four corners and the insert to comprise four legs (near 24, generally) extending radially from the centrally disposed opening toward the four corners of the tray, each leg comprising a pair of downwardly angled panels (24) connected along a fold line (27), each downwardly angled panel sloping downward from the diagonal fold line to an attachment panel (22, the panels 24 do slope downward and are connected to the attachment panels via members 26), wherein the fold lines

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are aligned with the diagonals of the bottom panel, wherein the attachment panels are connected to the downwardly angled panels along fold lines (21,23).

However, Stauffer '323 fails to specifically teach the attachment panels to be affixed to the tray. Nevertheless, Ford '326 divulges a base (figure 2) comprising a tray (28) with a flat bottom and an insert (26) disposed in the tray, wherein an attachment panel (26C) is affixed to the tray (at 34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have affixed the attachment panels of Stauffer '323 to the tray as in Ford '326 so as to provide for a more secure base.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marsicano '351.

Marsicano '351 discloses the previous invention wherein insert is formed from a blank that when folded in accordion fashion, assumes a substantially pyramidal shape defining the centrally disposed opening raised above the bottom panel, but fails to specifically teach side panels to be connected to and extending upwardly from the bottom panel. However, Marsicano '351 does teach that the tray can be of various shapes (column I, lines 65-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the tray of Marsicano '351 to have another shape, such as a square or pentagonal shape, which would inherently have side panels connected to and extending upwardly from the bottom panel, so as to satisfy the preferences of a user, in addition to providing an alternate design choice.

Allowable Subject Matter

Claims 6 and 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 6, the prior art as applied against claim 5 failed to further specifically teach each downwardly angled panel to be attached to an adjacent downwardly angled panel on an adjacent leg by a fold line.

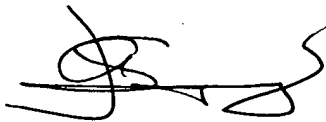
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanba '666, Stoddard '433, Beach '770, Thom '260, Lehmann '479, Evans '171, Cox '853, Gonzales '967 and Hacker '363 teach various bases comprised of trays and inserts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
February 2, 2005